UNITED NATIONS

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LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

SOUTH AFRICA

Communicated by the Government of South Africa

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

ABUSE OF DEPENDENCE-PRODUCING SUBSTANCES AND REHABILITATION CENTRES ACT NO. 41 OF 1971

[ASSENTED TO 17 MAY, 1971] [DATE OF COMMENCEMENT: 6 DECEMBER, 1971]

(*Afrikaans text signed by the State President*)

as amended by

Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, No. 80 of 1973

Medical, Dental and Supplementary Health Service Professions Act, No. 56 of 1974

Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, No. 14 of 1977

Criminal Procedure Act, No. 51 of 1977
[with effect from 22 July, 1977—see title CRIMINAL LAW AND PROCEDURE]

Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, No. 76 of 1978

Special Courts for Blacks Abolition Act, No. 34 of 1986
[with effect from 1 August, 1986—see title BLACKS]

Transfer of Powers and Duties of the State President Act, No. 97 of 1986
[with effect from 3 October, 1986—see title CONSTITUTIONAL LAW]

Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, No. 101 of 1986

Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, No. 78 of 1990

V.92-50462

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*Note by the Secretariat: The present document is a direct reproduction of the text communicated to the Secretariat.

ACT

To provide for the prohibition of the dealing in, and the use or possession of dependence-producing drugs; the imposition of a duty on certain persons to report to the police certain information in relation to certain acts in connection with such drugs; the forfeiture of certain property of certain persons; the cancellation of certain licences of certain persons; the creation of certain presumptions; the removal from the Republic of certain persons; the detention and interrogation of certain persons; the establishment of rehabilitation centres and hostels; the registration of institutions as rehabilitation centres and hostels; the committal of certain persons to and their detention, treatment and training in such rehabilitation centres or registered rehabilitation centres; the appointment of a Director of Rehabilitation Services to exercise control over rehabilitation centres and hostels and registered rehabilitation centres, and the reception and discharge of inmates of rehabilitation centres and registered rehabilitation centres; the amendment of the Medical, Dental and Pharmacy Act, 1928, and the Criminal Procedure Act, 1955; and to provide for other incidental matters.

1. **Definitions.**—In this Act, unless the context otherwise indicates—

"**Board**" means the National Advisory Board on Rehabilitation Matters appointed under section 16;

"**children's home**" means a children's home as defined in section 1 of the Children's Act, 1960 (Act No. 33 of 1960);

"**dangerous dependence-producing drug**" means any substance referred to in Part II of the Schedule to this Act;

"**deal in**", in relation to dependence-producing drugs or any plant from which such drugs can be manufactured, includes performing any act in connection with the collection, importation, supply, transhipment, administration, exportation, cultivation, sale, manufacture, transmission or prescription thereof;

"**dentist**" means any person registered as a dentist under the Medical, Dental and Pharmacy Act, 1928 (Act No. 13 of 1928);

"**dependence-producing drug**" means any substance referred to in the Schedule to this Act;

"**dependence-producing substances**" means dependence-producing drugs and includes alcoholic liquor;

"**Director**" means the Director of Rehabilitation Services appointed under section 26;

"**hostel**" means a hostel established under section 23 or deemed to be so established;

"**inmate**" means any person who has under this Act or any other law been committed or admitted or deemed to have been so committed or admitted to any rehabilitation centre or registered rehabilitation centre, and includes any person who has been released on licence from any rehabilitation centre or registered rehabilitation centre or who has been granted leave of absence therefrom, or who is still under the control or supervision of the management of any rehabilitation centre or registered rehabilitation centre or who is liable to be brought back thereto;

"**magistrate**" includes an additional magistrate and assistant magistrate;

[Definition of "magistrate" substituted by s. 2 of Act No. 34 of 1986.]

"**management**" in relation to any rehabilitation centre, means the superintendent of that rehabilitation centre and the medical practitioner, psychiatrist or clinical psychologist, if any, assisting him as provided in section 27, and, in relation to any hostel, means the person in charge of such hostel, and, in relation to a registered rehabilitation centre or registered hostel, means the persons who have the management and control thereof;

"**manufacture**", in relation to dependence-producing drugs, includes the preparing, extraction or producing thereof;

"**medical practitioner**" means any person registered as a medical practitioner or intern under the Medical, Dental and Pharmacy Act, 1928 (Act No. 13 of 1928);

"**Minister**", in relation to any provision of this Act, means the Minister to whom, or the Ministers to whom, acting in consultation with one another, the administration of that provision has been assigned by proclamation issued under section 53;

"**place of entertainment**" includes any premises, building, dwelling, flat, room, office, shop, structure, vessel or vehicle or any part thereof used for or in connection with any dance, musical performance, singing performance, concert or show, including the exhibition of any cinematograph film or any part thereof or any picture intended for exhibition through the medium of a mechanical device, and to which admission is obtained by virtue of any consideration, whether directly or indirectly, or by virtue of any contribution to any fund or for any purpose, or by virtue of membership of any association of persons;

"**plant**" includes any portion of a plant;

"**police officer**" means any member of a police force established under any law;

"**possess**" includes keeping, storing or having in custody or under control or supervision, and "**possession**" has a corresponding meaning;

"**potentially dangerous dependence-producing drug**" means any substance referred to in Part III of the Schedule to this Act;

"**prescribed**" means prescribed by regulation or rule made or prescribed under this Act;

"**prohibited dependence-producing drug**" means any drug referred to in Part I of the Schedule to this Act;

"**reform school**" means a reform school as defined by section 1 of the Children's Act, 1960;

"**registered hostel**" means a hostel registered under section 24;

"**registered rehabilitation centre**" means a rehabilitation centre registered under section 21;

"**regulation**" means any regulation made and in force under this Act;

"**rehabilitation centre**" means a rehabilitation centre established or deemed to have been established under section 18;

[Definition of "rehabilitation centre" inserted by s. 1 of Act No. 80 of 1973.]

"**Republic**" includes the territory;

"**rule**" means a rule prescribed by a management under any power conferred upon by regulation;

"**school of industries**" means a school as defined in section 1 of the Children's Act 1960;

"**Secretary**" or "**other senior officer**", in relation to any provision of this Act, means the head or any other senior officer of the Department of State administered by the Minister to whom the administration of that provision has been assigned by proclamation issued under section 53;

"**sell**", in relation to dependence-producing drugs or any plant from which such drugs can be manufactured, includes offering, advertising, possessing or exposing for sale, disposing, whether for consideration or otherwise, and exchange, and "**sale**" has a corresponding meaning;

"**social worker**" means a person registered as a social worker under section 33 of the National Welfare Act, 1965 (Act No. 79 of 1965), and who is in the employ of the State or, for the purposes of sections 29 (1), 29 (2) (*a*), 30 (4) (*a*), 31 (1) (*a*), 31 (2), 31 (3) and 41 (2) only, a welfare organization registered under section 19 of the said Act;

[Definition of "social worker" inserted by s. 1 (*a*) of Act No. 14 of 1977.]

"**social welfare officer**".....

[Definition of "social welfare officer" deleted by s. 1 (*b*) of Act No. 14 of 1977.]

"**superintendent**" means the head of a rehabilitation centre;

"**territory**" means the territory of South-West Africa;

"**this Act**" includes the regulations;

"**veterinarian**" means any person registered as a veterinarian under the Veterinary Act, 1933 (Act No. 16 of 1933).

CHAPTER I

DEPENDENCE-PRODUCING DRUGS

2. Dealing in, use or possession of prohibited or dangerous dependence-producing drugs prohibited.—Notwithstanding anything to the contrary in any law contained, any person—

(*a*) who deals in any prohibited dependence-producing drug or any plant from which such dependence-producing drug can be manufactured; or

(*b*) who has in his possession or uses any such dependence-producing drug or plant; or

(*c*) who deals in any dangerous dependence-producing drug or any plant from which such drug can be manufactured; or

(*d*) who has in his possession or uses any dependence-producing drug or plant referred to in paragraph (*c*).

shall be guilty of an offence and liable on conviction—

(i) in the case of a conviction for a contravention of any provision of paragraph (*a*) or (*c*), to imprisonment for a period not exceeding 25 years or to both such imprisonment and any fine which the court may in its discretion deem fit;

[Para. (i) substituted by s. 1 (*a*) of Act No. 78 of 1990.]

(ii) .....

[Para. (ii) deleted by s. 1 (*b*) of Act No. 78 of 1990.]

(iii) in the case of a conviction for a contravention of any provision of paragraph (*b*) or (*d*), to any fine which the court may in its discretion deem fit or to imprisonment for a period not exceeding 15 years or to both such fine and such imprisonment;

[Para. (iii) substituted by s. 1 (*c*) of Act No. 78 of 1990.]

(iv) .....

[S. 2 amended by s. 2 of Act No. 80 of 1973, by s. 1 of Act No. 76 of 1978 and by s. 1 of Act No. 101 of 1986. Para. (iv) deleted by s. 1 (*d*) of Act No. 78 of 1990.]

2A. .....

[S. 2A inserted by s. 3 of Act No. 80 of 1973, amended by s. 2 of Act No. 76 of 1978 and repealed by s. 2 of Act No. 101 of 1986.]

3. Dealing in, use or possession of potentially dangerous dependence-producing drugs prohibited.—Notwithstanding anything to the contrary in any law contained, any person—

(*a*) who deals in any potentially dangerous dependence-producing drug; or

(*b*) who uses or has in his possession any drug referred to in paragraph (*a*),

shall be guilty of an offence and liable on conviction—

(i) in the case of a conviction for a contravention of any provision of paragraph (*a*), to imprisonment for a period not exceeding 10 years or to both such imprisonment and any fine which the court may in its discretion deem fit;

[Para. (i) substituted by s. 3 of Act No. 101 of 1986 and by s. 2 of Act No. 78 of 1990.]

(ii) in the case of a conviction of any provision of paragraph (*b*), to any fine which the court may in its discretion deem fit or to both such fine and such imprisonment.

[Para. (ii) substituted by s. 3 of Act No. 101 of 1986 and by s. 2 of Act No. 78 of 1990.]

4. Saving.—The provisions of this Act relating to dangerous dependence-producing drugs or potentially dangerous dependence-producing drugs, shall not affect the provisions of the Medical, Dental and Pharmacy Act, 1928 (Act No. 13 of 1928), or any other Act,

in relation to any substances regarded for the purposes of the Medical, Dental and Pharmacy Act, 1928, or any other Act, as habit-forming drugs or potentially harmful drugs and which are regarded for the purposes of this Act as dangerous dependence-producing drugs or potentially dangerous dependence-producing drugs.

4A. .....

[S. 4A inserted by s. 4 of Act No. 80 of 1973 and repealed by s. 2 of Act No. 14 of 1977.]

5. Certain persons entitled to possess, administer or use certain dependence-producing drugs.—Any person to whom or on whose behalf any dangerous dependence-producing drug or potentially dangerous dependence-producing drug has been sold or supplied in terms of a written prescription of a medical practitioner, dentist or veterinarian, may possess such drug and administer such drug to any person referred to in the said prescription or to any animal in respect of which the prescription has been issued or, if the prescription has been issued in respect of himself, use such drug.

6. Duty of certain persons to report to police certain information.—(1) If the owner, occupier or manager of any place of entertainment, or any person in control of or who has the supervision of any place of entertainment, has reason to believe that any person in or on such place of entertainment has in his possession, uses or deals in any dependence-producing drug or any plant from which such drug can be manufactured in contravention of the provisions of this Act, such owner, occupier or manager or person in control of or who has the supervision of such place of entertainment, shall forthwith report his suspicion to any police officer on duty at the nearest police station and shall, at the request of such police officer, furnish such police officer with such details at his disposal regarding the person in respect of whom the suspicion exists.

(2) Any person who fails to comply with the provisions of subsection (1), shall be guilty of an offence and liable on conviction—

(*a*) in the case of a first conviction, to a fine not exceeding R30 000 or to imprisonment for a period not exceeding 15 years or to both such fine and such imprisonment;

(*b*) in the case of a second or subsequent conviction, to a fine not exceeding R50 000 or to imprisonment for a period not exceeding 25 years or to both such fine and such imprisonment.

[Sub-s. (2) amended by s. 3 of Act No. 76 of 1978 and substituted by s. 4 of Act No. 101 of 1986.]

(3) No prosecution shall be instituted in respect of an offence referred to in this section except upon the written authority of the Attorney-General concerned.

7. .....

[S. 7 repealed by s. 5 of Act No. 101 of 1986.]

8. Forfeiture.—(1) Notwithstanding anything to the contrary in any law contained, the court convicting any person of an offence under this Act shall declare—

(*a*) any dependence-producing drug or any plant from which such drug can be manufactured, which was used for the purpose of or in connection with the commission of the offence or which was found in the possession of the convicted person;

(*b*) any vehicle, vessel, aircraft or receptacle or other thing which was used for the purpose of or in connection with the commission of the offence or for the purpose of conveying or removing any dependence-producing drug or any plant referred to in paragraph (*a*) which was used for the purpose of or in connection with the commission of the offence, or the rights of the convicted person to such vehicle, vessel, aircraft, receptacle or thing;

(*c*) in the case contemplated in section 2 (*a*) or (*c*), 3 (*a*) or 6, any immovable property which was used for the purpose of or in connection with the commission of the offence, or the rights of the convicted person thereto;

(*d*) if it is a second or subsequent conviction under section 2 (*a*) or (*c*), any money found in the possession of the convicted person or which the court is satisfied is standing to his credit in any account with any banking institution, building society or financial institution as defined, respectively, in the Banks Act, 1965 (Act No. 23 of 1965), the Building Societies Act, 1965 (Act No. 24 of 1965), or the Financial Institutions (Investment of Funds) Act, 1964 (Act No. 56 of 1964), or which is standing to his credit in any other savings account established by law,

[Para. (*d*) substituted by s. 5 of Act No. 80 of 1973.]

to be forfeited to the State.

(2) A declaration of forfeiture under subsection (1) (*b*) or (*c*) shall not affect the rights which any person other than the convicted person may have to the vehicle, vessel, aircraft, receptacle, thing or immovable property concerned, if it is proved that he did not know that the vehicle, vessel, aircraft, receptacle, thing or immovable property was used or would be used for the purpose of or in connection with the commission of the offence concerned or that he could not prevent such use.

(3) The provisions of section 360 (4) and (5) of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), shall *mutatis mutandis* apply to any declaration of forfeiture under this section.

(4) If any immovable property is declared to be forfeited under subsection (1) (*c*), the registrar or clerk of the court making the declaration shall transmit the title deeds of such property to the registrar of deeds concerned who shall endorse a note on the title deeds of such property to the effect that the said property has so been declared forfeited.

(5) Any person who has the possession or custody of any title deed or bond required by a registrar or clerk of the court for the purposes of any endorsement in terms of subsection (4), shall deliver such deed or bond to the registrar or clerk of the court within a period of fourteen days after the registrar or clerk of the court has demanded it in writing.

(6) If any such person notifies the registrar or the clerk of the court in writing at the time of the delivery of such title deed or bond that he has a right of retention in respect thereof, the registrar or clerk of the court, as the case may be, shall return such title deed or bond to such person as soon as it is no longer required by him for the purposes of subsection (4).

(7) Any person who fails to comply with the provisions of subsection (5), shall be liable for the costs which the registrar or the clerk of the court concerned may incur in obtaining an order of the court for the production of such deed or bond.

9. Power of court to cancel certain licences.—When any person is convicted of a contravention of section 6, the court convicting such person may cancel any licence, issued in terms of any law, which relates to the place of entertainment concerned and of which such person was the holder at the time when such contravention occurred.

10. Presumptions.—(1) (*a*) If in any prosecution for an offence under section 2 it is proved that the accused was found in possession of—

(i) dagga exceeding 115 grams in mass;

(ii) any prohibited dependence-producing drugs,

it shall be presumed that the accused dealt in such dagga or drugs, unless the contrary is proved.

(*b*) If in any prosecution for an offence under section 2 (*a*) it is proved that the accused was the owner, occupier, manager or person in charge of cultivated land on a date on which dagga plants were found on such land, of the existence of which plants the accused was aware or could reasonably be expected to have been aware, it shall be presumed that the accused dealt in such dagga plants, unless the contrary is proved.

(*c*) If in any prosecution for an offence under section 2 (*c*) it is proved that the accused was found in possession of a quantity of dangerous dependence-producing drugs which exceeds the quantity of such dependence-producing drugs prescribed in writing by a medical practitioner, dentist or veterinarian during a period of thirty days immediately preceding the date on which such dangerous dependence-producing drugs were found in his possession, for use by the accused or his spouse or child under the age of eighteen years or by any animal of which he or his spouse or such child is or was the owner or which is or was in the care of the accused, it shall be presumed that the accused dealt in such drugs, unless the contrary is proved.

(*d*) If in any prosecution for an offence under section 2 (*a*) or (*c*) or section 3 (*a*) it is proved that the accused conveyed any dependence-producing drug or any plant from which such drug could be manufactured, it shall be presumed that the accused dealt in such drug, unless the contrary is proved.

(*e*) If in any prosecution for an offence under section 2 (*a*) or (*c*) or section 3 (*a*), it is proved that the accused was upon or in charge of or that he accompanied any vehicle, vessel or animal on or in which any dependence-producing drug, or any plant from which such drug could be manufactured, was found, it shall be presumed that the accused dealt in such drug or plant, unless the contrary is proved.

(2) If in any prosecution for an offence under this Act it is proved that a sample which was taken of anything to which such offence refers, was or contained any dependence-producing drug or that such drug could be manufactured therefrom, such thing shall be deemed to possess the same properties as such sample, unless the contrary is proved.

(3) If in any prosecution for an offence under this Act it is proved that any dependence-producing drug or plant from which such drug could be manufactured was found in the immediate vicinity of the accused, the accused shall be deemed to have been found in possession of such drug or plant, unless the contrary is proved.

(4) If in any prosecution for an offence under this Act the question arises whether any dangerous dependence-producing drug or potentially dangerous dependence-producing drug to which such offence relates was prescribed by a medical practitioner, dentist or veterinarian, such dangerous dependence-producing drug or potentially dangerous dependence-producing drug shall be deemed not to have been so prescribed, unless the contrary is proved.

(5) If in any prosecution for an offence under this Act the question arises whether any particular person is or was a medical practitioner, dentist or veterinarian, such person shall be deemed not to be or to have been a medical practitioner, dentist or veterinarian, as the case may be, unless the contrary is proved.

(6) If in a prosecution for failure to comply with the provisions of subsection (1) of section 6 it is proved that the accused was at or during the time alleged in the charge the owner, occupier or manager of a place of entertainment or that any place of entertainment was at that time under the control or supervision of the accused and that at or during that time any other person, while in or upon the place of entertainment in question, and in contravention of the provisions of this Act, used or was in possession of, or dealt in, a dependence-producing drug or plant referred to in that subsection, it shall for the purposes of such prosecution be presumed that, at or during that time, the accused had reason for the suspicion contemplated in that subsection, unless he proves that he was not then aware that any person in or upon that place of entertainment was using or had in his possession or was dealing in such a drug or plant, and that the circumstances under which the proven use or possession of, or dealing in, such a drug or plant occurred were not of such a nature that he could reasonably have been expected to have been aware of it or to have suspected that a person in or upon that place of entertainment was using or had in his possession or was dealing in such a drug or plant and, if those circumstances were of such a nature that it could reasonably be expected of him to have taken precautions against the use, possession of or dealing in such a drug or plant in or upon that place of entertainment by any person, that such precautions had been taken.

11. Powers of police.—(1) If any police officer suspects upon reasonable grounds any dependence-producing drug or plant from which such drug may be manufactured, to be on or in a place, vessel, vehicle or aircraft, and that a contravention of this Act is being or has been committed by means or in respect of such drug or plant, such police officer may at any time without a warrant enter and search such place, vessel, vehicle or aircraft and seize such drug or plant, or may search and interrogate any person whom he may find on or in such place, vessel, vehicle or aircraft with a view to obtaining from such person information concerning the presence of any dependence-producing drug or such plant or the cultivation of such plant on or in that place or elsewhere.

(2) In searching a woman the provisions of section 36 (3) of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), shall *mutatis mutandis* apply.

(3) Any article, substance or plant so seized shall be dealt with as if it had been seized under the provisions of the said Criminal Procedure Act or, if seized in the territory, as if it had been seized under the Criminal Procedure Ordinance, 1963 (Ordinance No. 34 of 1963), of the territory.

(4) Any person who obstructs or interferes with any police officer in the exercise of any powers or the performance of any duty under this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

12. Removal of convicted persons from the Republic.—If any person who is not a South African citizen by birth or descent is convicted of an offence under section 2 (*a*) or (*c*) or section 6 and is deemed by the Minister to be an undesirable inhabitant of the Republic, such person shall for the purposes of the Admission of Persons to the Union Regulation Act, 1913 (Act No. 22 of 1913), be deemed in terms of section 22 of the said Act to be an undesirable inhabitant of the Republic, and section 6 (2) and (3) of the said Act shall also apply *mutatis mutandis* in respect of his removal from the Republic.

13. Detention of persons for interrogation under warrant issued by a magistrate.—(1) Whenever it appears to a magistrate on the ground of information submitted to him upon oath by the public prosecutor that there is reason to believe that any person is withholding any information relating to an offence under paragraph (*a*) or (*c*) of section 2 or section 3 (*a*) or 6 from the public prosecutor or a policeman, he may, at the request of the public prosecutor, issue a warrant for the arrest and detention of such person.

(2) Notwithstanding anything to the contrary in any law contained, any person arrested by virtue of a warrant under subsection (1), shall as soon as possible be taken to the place mentioned in the warrant and detained there, or at any other place and subject to such conditions as the magistrate may from time to time determine, in custody for interrogation until the magistrate orders his release when satisfied that the detainee has satisfactorily replied to all questions at the said interrogation or that no useful purpose will be served by his further detention.

(3) (*a*) Any person arrested in terms of a warrant issued under subsection (1), shall be brought before a magistrate within sixty hours of such arrest and thereafter not less than once every fortnight.

(*b*) The magistrate shall at every such appearance of such person before him enquire whether such person has satisfactorily replied to all questions at his interrogation and whether it will serve any useful purpose to detain him further.

(*c*) Any person detained under subsection (1) may at any time make representations in writing to the magistrate relating to his detention or release.

(*d*) The attorney-general in whose area of jurisdiction any person is being detained under subsection (1) may at any time stop the interrogation of such person and thereupon such person shall be released from custody immediately.

(4) No court of law shall pronounce upon the validity of any action taken under this section, or order the release of any person detained under subsection (1).

(5) No person, other than an officer in the service of the State acting in the performance of his official duties, shall have access to a person detained under subsection (1), or shall be entitled to any official information relating to or obtained from such detainee.

(6) For the purposes of this section "magistrate" includes an additional magistrate.

14. Jurisdiction.—(1) Notwithstanding anything to the contrary in any law contained, a magistrate's court shall have jurisdiction to impose any sentence prescribed by section 2, 3 or 6.

(2) In the application of subsection (1) in relation to any fine referred to in section 2 or 3, there shall be no limit to the amount of such fine which may be imposed.

[Sub-s. (2) added by s. 3 of Act No. 78 of 1990.]

15. Minister of National Health and Population Development may add to or amend Schedule.—The Minister of National Health and Population Development may from time to time, after he has consulted with the Drugs Control Council established by section 2 of the Drugs Control Act, 1965 (Act No. 101 of 1965), declare by notice in the *Gazette* any substance to be a dependence-producing drug, and by such notice may add that dependence-producing drug to the Schedule to this Act or delete any dependence-producing drug referred to in that Schedule or otherwise amend the said Schedule.

[S. 15 substituted by s. 40 of Act No. 97 of 1986.]

CHAPTER II

NATIONAL ADVISORY BOARD ON REHABILITATION MATTERS

16. Establishment and functions of National Advisory Board on Rehabilitation Matters.—(1) As soon as may be after the commencement of this Act, the Minister shall establish a board to be known as the National Advisory Board on Rehabilitation Matters which shall exercise the powers and perform the functions conferred on or assigned to it by this Act.

(2) (*a*) The Board shall consist of so many members, but not more than nine, as the Minister may from time to time determine, and such members shall be appointed by the Minister.

(*b*) One of the members of the Board shall be an officer of the Department of Social Welfare and Pensions; one of the members shall be the Director; and the other members of the Board shall be persons who in the opinion of the Minister have expert or special knowledge of the problem relating to the abuse of dependence-producing substances or who are able to make a substantial contribution to the combating of such problem.

(3) (*a*) A member of the Board shall be appointed for such period not exceeding five years, and upon such conditions, as the Minister may determine at the time of making the appointment: Provided that the period of office of a member may be terminated at any time if in the opinion of the Minister there are good reasons for doing so.

(*b*) A member of the Board may on the expiration of any period for which he was appointed, be reappointed.

(4) If the office of any member of the Board becomes vacant before the expiration of the period for which he was appointed, the Minister shall, subject to the applicable provisions of subsection (2) (*b*), appoint another person to hold office for the unexpired portion of the period for which his predecessor was appointed.

(5) Any member of the Board who is not an officer in the public service, may be paid such fees or travelling and subsistence allowance, while he is engaged upon the business of the Board, as the Minister may, in consultation with the Minister of Finance, determine.

(6) (*a*) The Minister shall designate the officer of the Department of Social Welfare and Pensions appointed as member of the Board, as the chairman thereof and the Director as the vice-chairman thereof.

(*b*) The vice-chairman shall, when acting in the place of the chairman, in all respects have all the powers and perform all the duties of the chairman.

(7) In the event of the absence of both the chairman and the vice-chairman from any meeting of the Board, the members present at the meeting shall elect one of their number to preside at such meeting.

(8) The first meeting of the Board shall be held at a time and place to be determined by the Minister, and subsequent meetings shall be held at least twice every year and at such times and places as the chairman may determine.

(9) (*a*) The Board shall, as soon as may be practicable after it has been established, frame rules governing its quorum, the procedure at meetings and, generally, the conduct of its business, and may from time to time alter or revoke any such rules.

(*b*) Such rules shall have no force and effect unless they have been approved by the Minister and published by notice in the *Gazette*.

(10) The Secretary may designate any officer of the Department of Social Welfare and Pensions to act as secretary of the Board.

(11) (*a*) The Board shall at least twice during its term of office and whenever requested by the Minister to do so, prepare and submit to the Minister a report on its activities.

(*b*) Any such report shall be laid upon the Table in the Senate and in the House of Assembly within fourteen days after receipt thereof by the Minister if Parliament is then in session or, if Parliament is not then in session, within fourteen days after the commencement of its next ensuing ordinary session.

(12) The National Alcoholism Advisory Board appointed in terms of section 6 of the Retreats and Rehabilitation Centres Act 1963 (Act No. 86 of 1963), is hereby abolished.

17. Powers and functions of the National Advisory Board on Rehabilitation Matters.— The Board—

(*a*) shall advise the Minister in regard to any matter affecting the abuse of dependence-producing substances which the Minister may refer to it for its advice and may advise the Minister in regard to any matter upon which the Board considers it necessary to advise the Minister;

[Para. (*a*) substituted by s. 6 (*a*) of Act No. 80 of 1973.]

(*b*) may plan and co-ordinate measures in connection with the combating of the abuse of dependence-producing substances and the treatment of persons dependent on such substances;

(*c*) may plan and recommend to the Minister any research relating to dependence-producing substances or the abuse thereof and may give guidance to other bodies conducting such research;

[Para. (*c*) substituted by s. 6 (*b*) of Act No. 80 of 1973.]

(*d*) may visit and inspect any rehabilitation centre or registered rehabilitation centre, hostel or registered hostel from time to time and may interrogate any person accommodated therein and demand and inspect any book or document relating to such person;

(*e*) may report to the Minister its findings in connection with an inspection referred to in paragraph (*d*), and may recommend to the Minister the discharge of any inmate from a rehabilitation centre or registered rehabilitation centre;

(*f*) may exercise such powers and shall perform such functions as may be determined by the Minister from time to time.

CHAPTER III

REHABILITATION

18. Establishment of rehabilitation centres.—(1) The Minister may, in consultation with the Minister of Finance, out of moneys appropriated by Parliament for the purpose, establish, maintain and conduct rehabilitation centres for the reception and treatment, including any training, of such persons as are referred to in section 29 (1) and of any persons who are transferred or admitted thereto under any provision of this Act.

(2) Every retreat or rehabilitation centre established or deemed to have been established under the Retreats and Rehabilitation Centres Act, 1963 (Act No. 86 of 1963), and which is in existence at the commencement of this Act, shall, as from such commencement, be deemed to be a rehabilitation centre established under subsection (1), and any reference in any law or document to a retreat shall be construed as a reference to a rehabilitation centre established under this section.

19. Purposes for which persons are detained in rehabilitation centres.—The inmates of a rehabilitation centre shall be detained therein for the purpose of receiving or undergoing such treatment, including any training, and to perform such work as the Director may in consultation with the management and with approval of the Secretary from time to time determine, either generally or in a particular case.

20. Abolition of rehabilitation centre.—The Minister may at any time abolish a rehabilitation centre.

21. Registration of certain institutions.—(1) No person shall manage any institution or other place of residence maintained mainly for the accommodation and physical care of persons who are dependent on dependence-producing substances or in which such persons receive mainly physical or mental treatment, except a rehabilitation centre maintained by the State, including any provincial administration, or the Administration of the territory, unless such institution or place is registered under this section.

(2) Any person who desires to manage an institution or place referred to in subsection (1), shall apply in the prescribed manner to the Director for the registration thereof.

(3) The Director may, after consideration of such application and such other information as he may obtain, and if he is satisfied that such institution or place is so managed and conducted or will probably be so managed and conducted that the reception, maintenance, treatment and training of persons referred to in section 29 (1) and the powers conferred by or in terms of this Act upon the management of a registered rehabilitation centre, may properly be entrusted to or conferred upon the management of that institution or place and that the institution or place complies with the prescribed requirements, in his discretion grant the application on such conditions as he may deem fit and issue a registration certificate specifying those conditions to the applicant in the prescribed form.

[Sub-s. (3) substituted by s. 7 of Act No. 80 of 1973.]

(4) If the Director is after consideration of such application not so satisfied, he shall refuse the application or, if he is satisfied that such institution or place is managed or conducted or will probably be managed or conducted as contemplated in subsection (3), but that such institution or place does not comply with the prescribed requirements, the Director may on such conditions as he may deem fit, authorize the applicant to manage such institution or place for such period, but not exceeding eighteen months, as the Director may determine and may issue to the applicant a temporary registration certificate, specifying those conditions, in the prescribed form for the period so determined and may after expiration of the said period, or after notice by the applicant in the prescribed manner that the conditions so specified have been complied with, whichever may occur earlier, reconsider the application.

[Sub-s. (4) substituted by s. 7 of Act No. 80 of 1973.]

(5) The Director may at any time after having given one month's written notice of his intention to do so, and after consideration of written representations (if any) received by him during such month, amend or cancel a registration certificate or temporary registration certificate issued under subsection (3) or (4).

(6) The amendment or cancellation of such registration certificate or temporary registration certificate shall be effected by notice in writing to the holder thereof, and shall take effect on a date specified in the notice, not being earlier than three months after the date of the notice, unless the Director and the holder of the registration certificate or temporary registration certificate have otherwise agreed.

(7) A registration certificate or temporary registration certificate issued under subsection (3) or (4) shall not be transferable.

(8) (*a*) The holder of a registration certificate or temporary registration certificate issued under subsection (3) or (4) may, after three months' written notice, surrender such registration certificate or temporary registration certificate to the Director.

(*b*) Whenever a registration certificate or temporary registration certificate is cancelled under subsection (6), or surrendered under paragraph (*a*), the powers and duties conferred or imposed under this Act on the holder thereof in respect of any inmate thereof shall devolve upon the Director.

(9) Any institution declared a certified retreat under any Act repealed by section 63, or deemed to be so declared, which is in existence at the commencement of this Act, and any other institution or place referred to in subsection (1) which was in existence at such commencement, shall for a period of eighteen months from the date of such commencement be deemed to be registered under subsection (3).

(10) Any person who contravenes or fails to comply with any provision of this section, or any condition imposed thereunder, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

22. Classification of rehabilitation centres and classification and separation of inmates.—In order to provide treatment and training suitable to the needs and requirements of particular groups of inmates, the Director may, in consultation with the Secretary, classify rehabilitation centres under different categories or divisions, and shall provide for the classification and separation of different groups of inmates within a particular rehabilitation centre.

23. Establishment of hostels.—(1) The Minister may, in consultation with the Minister of Finance, out of moneys appropriated by Parliament for the purpose, establish, maintain and conduct hostels for the purpose of providing homes for inmates who have, under the provisions of this Act, been released on licence from a rehabilitation centre or registered rehabilitation centre or have been granted leave of absence therefrom or who have been discharged from the provisions of this Act, or for persons referred to in section 31 or for persons who are receiving or undergoing or have received or undergone treatment for dependency on dependence-producing substances or in an institution of a province or the territory who have received or undergone such treatment in any institution approved by the Director.

(2) Every hostel established or deemed to have been established under a law repealed by this Act, and which is in existence at the commencement of this Act, shall, as from such commencement, be deemed to be a hostel established under this section.

24. Registration of hostels.—(1) No person shall manage any institution or other place of residence maintained mainly for the accommodation of persons referred to in section 23 (1), except a hostel maintained by the State, including a provincial administration or the administration of the territory, for any purpose referred to in section 23, unless such institution or place is registered under this section.

(2) The Director may on application in the prescribed manner by any person desiring to manage such institution or place, in his discretion register the institution or place concerned on such conditions as may be mentioned in the registration certificate which shall be issued in the prescribed form, or he may refuse the application.

(3) The Director may after one month's notice of his intention to do so and after consideration of written representations received by him during such month, amend or cancel a registration certificate issued under subsection (2).

(4) The amendment or cancellation of such registration certificate shall be effected by notice in writing to the holder thereof and shall come into operation on the date specified in the notice, not being earlier than three months after the date of such notice, unless the Director and the holder of the registration certificate have agreed otherwise.

(5) (*a*) A registration certificate issued under subsection (2) shall not be transferable.

(*b*) The holder of such registration certificate may after three months' written notice surrender such registration certificate to the Director.

(6) Any institution or place referred to in subsection (1) which was under any law repealed by section 63 declared to be an approved hostel or was under such law deemed to be an approved hostel and which is in existence at the commencement of this section, or any institution or place referred to in that subsection which is in existence at such commencement, shall for a period of eighteen months from the date of such commencement or for such longer period as the Director may approve, be deemed to be registered under subsection (2).

(7) Any person who contravenes any provision of this section or any condition imposed thereunder, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

25. Inspection of rehabilitation centres, registered rehabilitation centres, hostels, registered hostels etc.—(1) The Director may at any time inspect or cause to be inspected by any officer in the service of the State designated by him any rehabilitation centre, registered rehabilitation centre, hostel, registered hostel, institution or place referred to in section 21 (1) or 24 (1) and he or such officer may to that end interrogate or cause to be interrogated any inmate or person accommodated therein or may cause such inmate or person to be examined by a medical practitioner, psychiatrist or clinical psychologist and the Director or officer conducting the inspection may demand any book or document which is kept in respect of or in connection with the rehabilitation centre, registered rehabilitation centre, hostel, registered hostel, institution or place or any inmate thereof or any person accommodated or detained or to be detained therein and may make a copy of any entry therein.

(2) The Director or officer so designated who exercises any power conferred upon him by subsection (1), shall at the request of the superintendent or head of the hostel concerned or of any member of the management of the registered rehabilitation centre, registered hostel, institution or place concerned, produce a certificate declaring that the powers referred to in subsection (1) have been conferred upon him which shall, in the case of the Director, be signed by the Secretary, and, in the case of an officer designated by the Director, be signed by the Director.

(3) Any person who obstructs or hinders the Director or a designated officer referred to in subsection (1) in the exercise of any power conferred under that subsection, or who refuses to give the Director or such officer at his request access to any inmate or person detained or accommodated in any rehabilitation centre, registered rehabilitation centre, hostel, registered hostel, or any institution or place referred to in section 21 (1) or 24 (1) or who refuses or fails to produce to the Director or such officer at his request any book or document in his custody or under his control and which relates to the rehabilitation centre, registered rehabilitation centre, hostel or registered hostel or such institution or place or to any inmate or person detained or accommodated in a rehabilitation centre, registered rehabilitation centre, hostel, registered hostel or any such institution or place, shall be guilty of an offence and liable on conviction to a fine not exceeding three hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

26. Director of Rehabilitation Services.—(1) Subject to the laws governing the public service, the Minister shall appoint a Director of Rehabilitation Services who shall exercise the powers and perform the duties which are conferred or imposed upon him by this Act.

(2) The Director shall be subject to the administrative control of the Secretary.

(3) Subject to the laws governing the public service, the Minister may appoint a Deputy Director of Rehabilitation Services, who—

(*a*) shall have the same powers and duties as the Director has under this Act, except those specified by the Minister or the Director; and

(*b*) in the absence of the Director, shall be deemed to be a member of the Board and shall act generally in the place of the Director, unless the Minister otherwise directs.

[Sub-s. (3) added by s. 8 of Act No. 80 of 1973.]

27. Staff of rehabilitation centres and hostels.—(1) (*a*) The Secretary may, subject to the laws governing the public service, appoint the staff necessary for the proper conduct and control of rehabilitation centres and hostels and shall appoint for every rehabilitation centre a social worker as superintendent.

[Para. (*a*) amended by s. 3 of Act No. 14 of 1977.]

(*b*) The functions, powers and duties of persons so appointed shall be as prescribed.

(2) The superintendent of every rehabilitation centre shall be assisted in the treatment and training and in the determination of the treatment and training which inmates or a particular inmate of the rehabilitation centre shall receive or undergo or the work to be performed by such inmates or inmate, by the medical practitioner, psychiatrist or clinical psychologist which may be attached to or designated to the rehabilitation centre.

28. Financial aid for certain institutions and associations of persons.—(1) The Minister may, in consultation with the Minister of Finance, out of moneys appropriated by Parliament for the purpose, make grants—

(*a*) in respect of the establishment, extension, reconstruction, maintenance, conduct and control of any registered rehabilitation centre or registered hostel; and

(*b*) to any association of persons approved by the Minister which has as its object the prevention or combating of dependency on dependency-producing substances or the treatment of persons referred to in section 29 (1) or the co-ordination of the activities of different associations of persons in that field.

(2) A grant made under subsection (1) shall be subject to the prescribed conditions and to the condition that the books, accounts and records of the registered rehabilitation centre, registered hostel, or association of persons concerned, shall at all times be available for inspection and auditing by any officer in the public service and that a report on the activities of the registered rehabilitation centre, registered hostel or association of persons concerned shall once in every calendar year be submitted to the Director.

29. Procedure for bringing persons eligible for admission to a rehabilitation centre etc., before a magistrate.—(1) Whenever there is lodged with or made before a public prosecutor a sworn declaration in writing by any person, including any social worker, alleging that any other person who is within the area of jurisdiction of the magistrate's court to which such prosecutor is attached, is a person who—

(*a*) is dependent on alcoholic liquor or dependence-producing drugs and in consequence thereof squanders his means or injures his health or endangers the peace or in any other manner does harm to his own welfare or the welfare of his family; or

(*b*) because of his own misconduct or default (which shall be taken to include the squandering of his means by betting, gambling or otherwise) habitually fails to provide for his own support or for that of any dependant whom he is legally liable to maintain; or

(*c*) habitually begs for money or goods or induces others to beg for money or goods on his behalf; or

(*d*) has no sufficient honest means of livelihood; or

(*e*) leads an idle, dissolute or disorderly life,

the clerk of the court shall, at the request of the public prosecutor, issue and deliver to a police officer a summons to be served on such person calling on him to appear before a magistrate within such area at a time and place stated therein, or if the public prosecutor does not request the issue of such a summons, a magistrate of the court in question may, on the application of the public prosecutor, issue a warrant directing that such person be arrested and as soon thereafter as practicable be brought before a magistrate within such area.

[Sub-s. (1) amended by s. 3 of Act No. 14 of 1977.]

(2) (*a*) A public prosecutor shall not, in terms of subsection (1), request a clerk of the court to issue a summons in respect of any person unless he has obtained from a social worker a report as to the social circumstances of the person concerned and any other relevant matter affecting him.

[Para. (*a*) amended by s. 3 of Act No. 14 of 1977.]

(*b*) A public prosecutor shall not, except in such cases as in his opinion are very urgent, in terms of subsection (1) apply to a magistrate for the issue of a warrant for the arrest of any person unless he has obtained in respect of such person such a report as is referred to in paragraph (*a*).

(*c*) Where such a report was not obtained before the issue of a warrant, the public prosecutor shall obtain it as soon as possible after the issue of the warrant.

(3) All the provisions of the Criminal Procedure Act, 1955, (Act No. 56 of 1955), relating to the form and manner of execution of warrants of arrest, the service of summonses in criminal cases in inferior courts, the arrest, detention, searching and other treatment necessary for the control of persons named in warrants of arrest, the time to be allowed for appearance in the case of any person summoned and the manner in which persons summoned to appear may be dealt with on failure to appear or to remain in attendance as required, shall *mutatis mutandis* apply in respect of warrants of arrest and summonses issued under this section.

(4) For the purposes of paragraph (*e*) of subsection (1), a person who does not possess sufficient means to provide for his own needs, or for those of any dependant whom he is legally liable to maintain, shall be deemed to be idle if he is not regularly engaged in remunerated work unless he is prevented from working by illness or mental disorder or by any other circumstance beyond his control.

30. Committal of persons to rehabilitation centre or registered rehabilitation centre after enquiry.—(1) (*a*) Subject to the provisions of this section, a magistrate before whom any person is brought in terms of section 29 (1) shall, in the presence of that person, enquire whether he is such a person as is described in that section.

(*b*) The magistrate presiding at the enquiry, may summon to his assistance a social worker or a social worker and a medical practitioner or psychiatrist or clinical psychologist to sit with him as assessor or assessors at the enquiry.

[Para. (*b*) amended by s. 3 of Act No. 14 of 1977.]

(*c*) The provisions of section 93*ter* of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), shall *mutatis mutandis* apply in respect of an enquiry under this section where the magistrate has summoned an assessor or assessors under paragraph (*b*).

(*d*) A public prosecutor, or some other fit and proper person designated by the magistrate concerned, shall appear at the enquiry and such prosecutor or other person may call witnesses and cross-examine witnesses who give evidence at the enquiry.

(*e*) The person in respect of whom the enquiry is held shall be entitled to be represented by an advocate or attorney and he or his legal representative shall be entitled to cross-examine any witness and to call his own witnesses and he may give evidence himself and he or his legal representative may show cause why an order should not be made under subsection (6) in respect of him.

(2) Save as is otherwise provided in this Act, the laws governing criminal trials in magistrates' courts shall *mutatis mutandis* apply in respect of securing the attendance of witnesses at such enquiry, the examination of witnesses, the recording of evidence, the payment of allowances to witnesses and the production of books, documents and things.

(3) (*a*) No person whose presence is not necessary, shall be present at the enquiry, except with the consent of the magistrate.

(*b*) The provisions of section 156 (1) of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), in so far as they relate to the holding of a criminal trial in the absence of an accused person, shall *mutatis mutandis* apply in respect of an enquiry held in terms of this section.

(*c*) The provisions of section 108 of the Magistrates' Courts Act, 1944, shall *mutatis mutandis* apply in respect of proceedings in connection with an enquiry held in terms of this section as if those proceedings were proceedings in a court contemplated in the said section 108.

(*d*) Any person who at such an enquiry gives false evidence knowing it to be false, or not knowing or believing it to be true, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

(4) The magistrate holding the enquiry—

(*a*) shall, before he makes any order under subsection (6), direct the public prosecutor or other person appearing at the enquiry in terms of subsection (1) (*d*), to submit to him the report obtained from a social worker in terms of section 29 (2); and

[Para. (*a*) amended by s. 3 of Act No. 14 of 1977.]

(*b*) may direct that the person in respect of whom the enquiry is being held be examined by a district surgeon or by a psychiatrist or clinical psychologist designated by the magistrate and cause all steps (including the use of force) which may be necessary for the carrying out of such examination to be taken and may call upon the district surgeon or the psychiatrist or clinical psychologist to furnish him with a report showing the results of the examination.

(5) The contents of any report submitted or furnished in terms of subsection (4) shall be disclosed to the person concerned and he or his legal representative shall be given an opportunity, if he so desires, of cross-examining the person by whom it was made in relation to any matter arising out of the report and of refuting any allegation contained therein.

(6) If it appears to the magistrate, on consideration of the evidence and of any report submitted or furnished to him in terms of subsection (4)—

(*a*) that the person concerned is such a person as is described in section 29 (1); and

(*b*) that he is a type of person who requires and would probably benefit by the treatment and training provided in a rehabilitation centre or registered rehabilitation centre; or

(*c*) that it would be in his own interest or in the interest of his dependants, if any, or in the interest of the community, that he be detained in a rehabilitation centre or registered rehabilitation centre,

he may, subject to the provisions of section 31, order that the person concerned be detained in a rehabilitation centre or registered rehabilitation centre designated by the Director.

(7) The magistrate may, pending the removal of such person to a rehabilitation centre or registered rehabilitation centre, as the case may be, order that such person be detained in custody or released on bail as provided in section 32 (1).

31. Postponement of order.—(1) If it appears to a magistrate at an enquiry under section 30 that the person in respect of whom the enquiry is being held is such a person as is referred to in subsection (6) of that section, the magistrate may in his discretion, make an order postponing for a period not exceeding three years, the making of an order in terms of that subsection and release the person concerned on condition—

(*a*) that he shall submit himself to supervision by a social worker;

[Para. (*a*) amended by s. 3 of Act No. 14 of 1977.]

(*b*) that he shall undergo any prescribed treatment; and

(*c*) that he shall comply with such prescribed requirements as the magistrate may determine.

(2) Any magistrate may, after consideration of a report by a social worker, at any time unconditionally discharge any person in respect of whom the making of an order has been postponed in terms of this section.

[Sub-s. (2) amended by s. 3 of Act No. 14 of 1977.]

(3) Where the making of an order has been postponed for a period of less than three years, any magistrate may, after consideration of a report by a social worker, at any time before the expiration of such period make an order extending the period of postponement for such further period, not exceeding the difference between three years and the period for which the making of the order has been postponed, as he may deem fit.

[Sub-s. (3) amended by s. 3 of Act No. 14 of 1977.]

(4) If at the end of the period for which the making of an order has been postponed in terms of this section a magistrate is satisfied that the person concerned has observed all the conditions subject to which he was released, that magistrate shall unconditionally discharge him.

(3) (*a*) If a person in respect of whom the making of an order has been postponed in terms of this section fails to comply with any of the conditions subject to which he was released, he may, upon the order of any magistrate, be arrested without warrant by any police officer or social worker, and any magistrate may then make an order in terms of section 30 (6) as if the making of such an order had never been postponed.

[Para. (*a*) amended by s. 3 of Act No. 14 of 1977.]

(*b*) Any person arrested in terms of paragraph (*a*) may be detained in custody in any place referred to in paragraph (*a*) of section 32 (1) until he can be brought before a magistrate.

(*c*) The provisions of section 32 (2) shall *mutatis mutandis* apply in respect of any person detained in custody in a place referred to in the said section in terms of paragraph (*b*).

(*d*) A copy of any order made under section 31 (1) purporting to be certified by the clerk of the court or any other officer having the custody of the records of the magistrate's court to which the magistrate who made the order is or was attached shall, if the name of the person mentioned therein against whom such order was made, substantially corresponds with that of the person who is to be dealt with in accordance with the provisions of subsection (2), (3), (4) or (5) of this section, on the mere production thereof be *prima facie* proof of the fact that such order was so made against such person.

32. Temporary custody of persons pending enquiry or removal to rehabilitation centre or registered rehabilitation centre.—(1) (*a*) A magistrate holding an enquiry under section 30 may, if he deems it necessary or expedient, postpone or adjourn the enquiry from time to time for periods not exceeding fourteen days at any one time and may, in his discretion, order that, during the postponement or adjournment, the person concerned be detained in custody in a rehabilitation centre, registered rehabilitation centre, hostel, registered hostel, prison, police cell or lock-up or other place regarded by the magistrate as suitable, or, if the person concerned is under the age of eighteen years, in a place of safety as defined in section 1 of the Children's Act, 1960 (Act No. 33 of 1960), or be released on bail *mutatis mutandis* as if he were a person whose trial on a criminal charge in a magistrate's court had been postponed or adjourned.

(*b*) Pending the removal to a rehabilitation centre or registered rehabilitation centre of any person against whom an order has been made under section 30 (6), he may be detained in custody or released on bail as provided in paragraph (*a*) as if he were such a person as is referred to therein.

(*c*) No person shall in terms of this subsection be detained in custody in a police cell or lock-up for a continuous period of longer than twenty-eight days.

(2) The Minister may, in consultation with the Minister of Finance, out of moneys appropriated by Parliament for the purpose, contribute towards the maintenance of any person who is, in terms of subsection (1), detained in a rehabilitation centre, registered rehabilitation centre, registered hostel, children's home or any other place which is not maintained by the State.

33. Appeals against and review of certain orders.—The law relating to appeals and any form of review in criminal cases shall *mutatis mutandis* apply in respect of any order made under section 30, 31 or 32 as if such order were a sentence passed by a magistrate's court in a criminal case.

34. Detention in rehabilitation centre or registered rehabilitation centre.—(1) Any person who has been ordered to be detained in a rehabilitation centre or registered rehabilitation centre under section 30 or who has been transferred to a rehabilitation centre or registered rehabilitation centre in terms of the provisions of this Act, shall be detained in the rehabilitation centre or registered rehabilitation centre concerned until he is released on licence or discharged or transferred or returned to any other institution in terms of any provision of this Act.

(2) The superintendent of a rehabilitation centre or the management of a registered rehabilitation centre shall—

(*a*) notify the Director when an inmate is released on licence under the provisions of this Act and of the particulars of such release;

(*b*) if an inmate has, after the expiration of a period of twelve months after the making of an order under section 30 (6), not yet been discharged from the rehabilitation centre or registered rehabilitation centre concerned, fully report to the Director and advance reasons why such inmate shall not be so discharged and shall, every six months thereafter, if such inmate has not been so discharged, advance further reasons why he should not be discharged.

(3) The Director may at any time and shall, if the Minister so directs, discharge an inmate from the provisions of this Act.

(4) The discharge of an inmate from the provisions of this Act shall not preclude the subsequent committal or transfer of the person concerned to a rehabilitation centre or registered rehabilitation centre.

(5) If any person under the age of eighteen years is, under the provisions of this Act, to be detained in a rehabilitation centre or registered rehabilitation centre, he may be detained in a place of safety established under section 38 (1) of the Children's Act, 1960 (Act No. 33 of 1960), and, if he is so detained, such place of safety shall in relation to such person be deemed to be a rehabilitation centre for the purposes of this Act.

35. Transfer of inmates from and to rehabilitation centres and registered rehabilitation centres.—(1) Subject to the provisions of subsection (2), the Director may at any time after consultation with the managements concerned—

(*a*) transfer an inmate, other than a voluntary inmate, from one rehabilitation centre to another rehabilitation centre; or

(*b*) transfer an inmate, other than a voluntary inmate, from a rehabilitation centre to a registered rehabilitation centre and *vice versa*; or

(*c*) transfer an inmate, other than a voluntary inmate, from one registered rehabilitation centre to another registered rehabilitation centre,

if the inmate concerned will in his opinion benefit or probably benefit by the treatment or training provided at the rehabilitation centre or registered rehabilitation centre to which he is so transferred.

(2) No person transferred to a rehabilitation centre under section 36 shall be transferred under this section to a registered rehabilitation centre.

36. Transfer of persons from prison to rehabilitation centre.—(1) Notwithstanding anything to the contrary contained in the Prisons Act, 1959 (Act No. 8 of 1959), or in any other law, the Minister of Prisons may, in consultation with the Minister, by order in writing transfer to a rehabilitation centre designated by the Minister any person who is undergoing a term of imprisonment in any prison which is subject to the provisions of that Act, if, in his opinion—

(*a*) it is desirable that such person should, before he is returned to the community, receive treatment or training in a rehabilitation centre; and

(*b*) such person is a type of person who will or will probably benefit by the particular kind of treatment and training provided in a rehabilitation centre.

(2) No person serving a sentence of imprisonment for a period exceeding six months shall be transferred to a rehabilitation centre in terms of subsection (1) if the period between

the date contemplated for his transfer and the latest date until which he could, but for the transfer, have been detained in prison is less than six months.

[Sub-s. (2) substituted by s. 9 of Act No. 80 of 1973.]

(3) A person transferred to a rehabilitation centre in terms of subsection (1) shall be deemed to be discharged from the provisions of the Prisons Act, 1959, and shall become subject, *mutatis mutandis*, to all the provisions of this Act as if he had in the first instance been committed to a rehabilitation centre under this Act.

37. Retransfer from rehabilitation centre to prison.—(1) The Minister may, in consultation with the Minister of Prisons, retransfer to the prison from which he was originally transferred, or to any other prison designated by the Commissioner of Prisons, any person transferred to a rehabilitation centre under section 36 if in the opinion of the Minister, on representations made to him by the Director, that person has proved to be unsuited to or is not likely to benefit by the kind of treatment and training provided in a rehabilitation centre.

(2) Any inmate retransferred to a prison in terms of subsection (1) shall be deemed to be discharged from the provisions of this Act, and shall thereafter again become subject to the provisions of the Prisons Act, 1959 (Act No. 8 of 1959), and the regulations made thereunder.

(3) For the purpose of calculating the period for which a person retransferred to a prison in terms of subsection (1) shall be detained therein under the sentence passed upon him, the period between the date of his transfer to a rehabilitation centre and the date of his retransfer to that prison shall count as part of his sentence.

38. Transfer of persons from children's home, school of industries or reform school to rehabilitation centre or registered rehabilitation centre.—(1) Notwithstanding anything to the contrary contained in the Children's Act, 1960 (Act No. 33 of 1960), or in any other law, a Minister, other than the Minister entrusted with the administration or registration of a children's home, school of industries or reform school, may, in consultation with the Minister, and the Minister may, if he is entrusted with the administration or registration of a children's home, school of industries or reform school, by order in writing transfer to a rehabilitation centre or registered rehabilitation centre designated by the Minister, any person who is undergoing a period of detention in that children's home, school of industries or reform school, if, in his opinion—

(*a*) it is desirable that such person should, before he is returned to the community, receive treatment or training in a rehabilitation centre or registered rehabilitation centre; and

(*b*) such person is a type of person who will or will probably benefit by the particular kind of treatment and training provided in the rehabilitation centre or registered rehabilitation centre in question.

(2) No person shall be transferred to a rehabilitation centre or registered rehabilitation centre in terms of subsection (1) if the period between the date contemplated for his transfer and the date of expiration of the period for which he is liable to be detained in the children's home, school of industries or reform school, is less than six months.

(3) A person transferred to a rehabilitation centre or registered rehabilitation centre in terms of subsection (1), shall be deemed to be discharged from the provisions of the Children's Act, 1960, and shall become subject, *mutatis mutandis*, to all the provisions of this Act as if he had in the first instance been committed to such rehabilitation centre or registered rehabilitation centre, as the case may be, under this Act.

39. Retransfer from rehabilitation centre or registered rehabilitation centre to children's home, school of industries or reform school.—(1) The Minister may, in consultation with the other Minister concerned, retransfer to the children's home, school of industries or reform school from which any person was originally transferred, or to any other children's home, school of industries or reform school designated by the Secretary of the department

of State in question, any person transferred to a rehabilitation centre or registered rehabilitation centre under section 38 if in the opinion of the Minister, on representations made to him by the Director, that person has proved to be unsuited to or is not likely to benefit by the kind of treatment and training provided in the rehabilitation centre or registered rehabilitation centre, as the case may be.

(2) An inmate retransferred to a children's home, school of industries or reform school in terms of subsection (1), shall be deemed to be discharged from the provisions of this Act, and shall thereafter again become subject to the law governing the children's home, school of industries or reform school to which he has been retransferred.

(3) Any person retransferred to a children's home, school of industries or reform school in terms of subsection (1), shall not be detained in a children's home, school of industries or reform school beyond the expiration of the period for which he could, under the order of the court which authorized his detention, have been detained in a children's home, school of industries or reform school had he not been transferred.

40. Leave of absence from rehabilitation centre or registered rehabilitation centre.—The management of a rehabilitation centre or registered rehabilitation centre may grant to any inmate leave of absence therefrom for such periods and on such conditions as may be prescribed, and may at any time revoke such leave and direct the inmate to return to the rehabilitation centre or registered rehabilitation centre, as the case may be.

41. Inmate of rehabilitation centre or registered rehabilitation centre may be released on licence.—(1) The management of a rehabilitation centre or registered rehabilitation centre may with the approval of the Director and shall, if the Director so directs, release an inmate on licence therefrom, subject to the provisions of subsection (2) and to any conditions which it may stipulate, and may at any time vary the conditions of such licence.

(2) An inmate who has been released on licence shall, in accordance with the regulations, remain under the supervision of a social worker or of a society or person approved by the Director, until such licence expires or is cancelled under this Act or he is discharged under a provision of this Act: Provided that the Director may discharge an inmate from the provisions of this Act at any time prior to the expiration of the period for which he was released on licence.

[Sub-s. (2) amended by s. 3 of Act No. 14 of 1977.]

42. Revocation of licence.—(1) (*a*) If an inmate who has been released on licence fails to comply with any condition of his release on licence, or if, in the opinion of the management of the rehabilitation centre or registered rehabilitation centre concerned, he has not proved capable of adjusting himself properly to the normal life of the community, the inmate's licence may be revoked by such management and he may be recalled to the rehabilitation centre or registered rehabilitation centre in question: Provided that where the need for recalling an inmate is so urgent that it ought not to be deferred until the management has dealt with the matter, the superintendent or chairman of the management of the rehabilitation centre or registered rehabilitation centre in question, may exercise all the powers of the management under this subsection.

(*b*) An inmate who has in terms of paragraph (*a*) been recalled to a rehabilitation centre or registered rehabilitation centre and who does not return thereto without delay may be arrested without warrant by any police officer, social worker or member of the staff of any rehabilitation centre or registered rehabilitation centre authorized thereto by the Director and be taken back or returned to the rehabilitation centre or registered rehabilitation centre from which he was released on licence.

[Para. (*b*) amended by s. 3 of Act No. 14 of 1977.]

(*c*) Any person arrested in terms of paragraph (*b*) may be detained in custody in any place referred to in paragraph (*c*) of section 32 (1) until he can be taken back or returned to the rehabilitation centre or registered rehabilitation centre in question.

(*d*) The provisions of section 32 (2) shall *mutatis mutandis* apply in respect of any person detained in custody in terms of paragraph (*c*) in a place referred to in the said subsection.

(2) Any person recalled to a rehabilitation centre or registered rehabilitation centre in terms of subsection (1) who has returned thereto or has been taken back or returned thereto shall be detained therein until he is discharged or again released on licence in terms of this Act.

43. Method of dealing with absconders from rehabilitation centre or registered rehabilitation centre.—(1) For the purposes of this section, an inmate who has been granted leave of absence from a rehabilitation centre or registered rehabilitation centre and who on the revocation or expiration of his leave of absence fails to return to the rehabilitation centre or registered rehabilitation centre from which he was granted such leave, and an inmate who without permission absents himself from any hospital to which he may have been admitted at the instance of the superintendent or management of a rehabilitation centre or registered rehabilitation centre, shall be deemed to have absconded from the rehabilitation centre or registered rehabilitation centre from which he was granted leave of absence or from which he was admitted to such hospital.

(2) (*a*) An inmate who has absconded from a rehabilitation centre or registered rehabilitation centre may be arrested without warrant by any police officer, social worker or member of the staff of any rehabilitation centre or registered rehabilitation centre authorized thereto by the Director, and shall be brought as soon as may be before a magistrate of the district in which he was arrested.

[Para. (*a*) amended by s. 3 of Act No. 14 of 1977.]

(*b*) Any person arrested in terms of paragraph (*a*) may be detained in custody in any place referred to in paragraph (*a*) of section 32 (1) until he can be brought before the said magistrate.

(3) A magistrate before whom any such inmate is brought shall, after having enquired into the reasons why the inmate absconded, order that the inmate—

(*a*) be returned to the rehabilitation centre, registered rehabilitation centre or hospital from which he absconded; or

(*b*) be detained in custody, pending the decision of the Director, in any place referred to in paragraph (*a*) of section 32 (1) designated by the magistrate,

and shall in either case forthwith report to the Director the result of his enquiry, and any order which he made under this subsection.

(4) On consideration of the magistrate's report and after any further enquiry which he may deem necessary, the Director shall, if the magistrate has ordered that the inmate be detained in custody pending the decision of the Director—

(*a*) direct that the inmate be returned to the rehabilitation centre, registered rehabilitation centre or hospital from which he absconded; or

(*b*) deal with him under section 35 (1); or

(*c*) direct that the inmate be released on licence under section 41; or

(*d*) direct that he be discharged from the provisions of this Act.

(5) The provisions of section 32 (2) shall *mutatis mutandis* apply in respect of any person detained in custody in a place referred to in the said section in terms of subsection (2) (*b*) or in pursuance of an order made under subsection (3) (*b*).

44. Admission of voluntary inmate to rehabilitation centre or registered rehabilitation centre.—(1) Any person may, either himself or through any other person acting on his behalf, or a parent or guardian may on behalf of a minor child of which he is the parent or guardian, apply to a social worker in the prescribed manner that he or such minor child, as the case may be, be admitted to a rehabilitation centre or registered rehabilitation centre as a voluntary inmate.

[Sub-s. (1) amended by s. 3 of Act No. 14 of 1977.]

(2) (*a*) The application shall be accompanied by a report by a medical practitioner regarding the applicant's or minor's general state of health and physical condition, including any other medical or psychiatric report which the social worker may deem necessary.

[Para. (*a*) amended by s. 3 of Act No. 14 of 1977.]

(*b*) If in the opinion of the social worker it would cause undue hardship if the applicant were to be required to pay the expenses incurred in obtaining any report referred to in paragraph (*a*), he may direct that such expenses be met from public funds.

[Para. (*b*) amended by s. 3 of Act No. 14 of 1977.]

(3) If the social worker to whom the application is made is, after consideration of the application and the documents accompanying it, of opinion that the person or minor for whose admission to a rehabilitation centre or registered rehabilitation centre application is made (hereinafter in this section referred to as the patient) is probably such a person as is referred to in section 29 (1), he shall ascertain from the management of a rehabilitation centre or registered rehabilitation centre whether such management is prepared to admit the patient to its rehabilitation centre or registered rehabilitation centre and, if such management is so prepared, he shall notify the applicant of the willingness of the management concerned so to admit such patient and shall transmit the application and the said documents and a report as is contemplated in section 29 (2) (*a*) on the patient to the management concerned and shall transmit copies thereof to the Director.

[Sub-s. (3) amended by s. 3 of Act No. 14 of 1977.]

(4) If the Director is, at any time after the patient has been so admitted to a rehabilitation centre or registered rehabilitation centre and after such enquiry as he may deem fit, satisfied that the patient is not such a person as is contemplated in section 29 (1) or that he will probably not benefit by the treatment and training provided in a rehabilitation centre or registered rehabilitation centre or that his admission to a rehabilitation centre or registered rehabilitation centre has been obtained fraudulently, he may discharge the patient from the provisions of this Act and direct that he be discharged from the rehabilitation centre or registered rehabilitation centre in which he is detained.

(5) Any person admitted under subsection (3) to a rehabilitation centre or registered rehabilitation centre, shall be detained therein as an inmate for such period, not exceeding six months, as the management of the rehabilitation centre or registered rehabilitation centre may determine.

(6) Any such person shall, while he remains an inmate, be subject to all the applicable provisions of this Act.

45. Payment of allowances to inmates of rehabilitation centres.—(1) Subject to the provisions of subsection (2), allowances may be paid to inmates of rehabilitation centres in respect of any work performed by them while they are being detained therein or in respect of any period during which they are absent therefrom on leave granted under section 40.

(2) The rates of such allowances, the classes of inmates to whom the allowances are payable, and any other conditions attaching to the payment of such allowances, shall be determined by regulation.

(3) Any regulation under subsection (2) may provide for the apportionment to any inmate who has become too ill to perform any work, of part of the allowance which would but for his illness have been payable to such inmate.

46. Inmates to have access to management and vice versa.—The inmates of a rehabilitation centre or registered rehabilitation centre shall, subject to the prescribed conditions, have the right of personal access to the management, and the management concerned shall likewise have a similar right of access to the inmates.

47. Maintenance of discipline in rehabilitation centres and registered rehabilitation centres.—(1) If an inmate of a rehabilitation centre or registered rehabilitation centre contravenes any regulation or any rule prescribed by the management of such rehabilitation

centre or registered rehabilitation centre under the powers conferred upon it by regulation, the superintendent or a person designated by the management may—

(*a*) take disciplinary steps against that inmate in accordance with the powers conferred upon him by regulation and the procedure prescribed by regulation, and may impose upon him any punishment prescribed by the regulations for a contravention thereof or of such rules; or

(*b*) cause the inmate to be brought before the magistrate's court of the district in which the rehabilitation centre or registered rehabilitation centre is situated, which court shall have jurisdiction to try the inmate for the alleged offence and to sentence him, in lieu of or in addition to any penalty provided for in the regulations for the offence in question—

(i) to imprisonment for a period not exceeding six months; or

(ii) to be kept in confinement apart from the other inmates in a place set aside for the purpose at the rehabilitation centre or registered rehabilitation centre for a period not exceeding thirty days, provided the medical practitioner responsible for the medical care of the inmates concerned has certified that such punishment will in his opinion not be harmful to the health of the inmate.

(2) (*a*) Whenever the superintendent or the person referred to in subsection (1), has imposed upon an inmate any sentence under subsection (1) (*a*), the record of the trial shall forthwith be transmitted, together with such remarks as he may desire to append to the record, and with any written statements or arguments which the inmate sentenced may desire to have so appended, to the clerk of the magistrate's court of the district in which the rehabilitation centre or registered rehabilitation centre is situated.

(*b*) The said clerk shall forthwith submit the record, together with such remarks, statements or arguments (if any) to the magistrate of the district for his consideration.

(3) If it appears to the magistrate that the conviction and sentence are in accordance with justice, he shall endorse his certificate to that effect upon the record and forthwith return the record to the superintendent or designated person concerned.

(4) If it appears to the magistrate, on consideration of the papers submitted to him, that the conviction or sentence is not in accordance with justice, he shall set aside or correct the proceedings, and may reduce or vary the sentence, and shall return the record with his instructions thereon to the superintendent or designated person concerned.

(5) If an inmate is sentenced under subsection (1) (*b*) to a term of imprisonment he shall, after the expiry of that term, be returned to the rehabilitation centre or registered rehabilitation centre of which he was an inmate, or to any other rehabilitation centre or registered rehabilitation centre designated by the Director.

48. Estimating of age of person.—(1) (*a*) Whenever in connection with any proceedings in terms of this Act the age of any person is a relevant fact of which no or insufficient evidence is available, the officer presiding at those proceedings may estimate the age of that person by his appearance or from any information which is available, and the age so estimated shall, for the purposes of this Act, be deemed to be the true age of that person.

(*b*) If it is proved after the conclusion of those proceedings that the age so estimated is not the true age of that person, the error shall not, if it was made in good faith, affect any decision given or order made in the course of those proceedings.

(2) The age of a person estimated as provided in subsection (1) shall be deemed to have been attained on the day when the estimate is made.

CHAPTER IV

GENERAL

49. Witnesses from rehabilitation centre or registered rehabilitation centre.—The provisions of section 216 of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), relating to prisoners shall *mutatis mutandis* apply with reference to an inmate of any rehabilitation centre or registered rehabilitation centre.

50. Admission to rehabilitation centre or registered rehabilitation centre of persons from territories outside the Republic.—(1) (*a*) The Government of the Republic, represented by the Minister, may enter into an agreement with the Government of any territory in Africa for the admission to and the detention in any rehabilitation centre or registered rehabilitation centre in the Republic, of any person whose detention in any institution for the treatment of persons dependent upon dependence-producing substances for a period of not less than one year has been ordered by a competent court or officer of the said territory according to the law in force therein.

(*b*) Whenever such an agreement has been entered into, the Minister shall cause to be published in the *Gazette* a notice of that fact and a summary of the terms of the agreement.

(2) The Minister may, with due regard to the provisions of section 30 (6), order the admission to and detention in a rehabilitation centre or registered rehabilitation centre of any person whose detention in an institution for the treatment of persons dependent upon dependence-producing substances for a period of not less than one year has been ordered by a competent court or officer of a territory with the Government of which the Government of the Republic has entered into an agreement mentioned in subsection (1).

(3) Any person admitted to a rehabilitation centre or registered rehabilitation centre by order of the Minister under subsection (2) may be detained therein until he is discharged or released on licence under a provision of this Act, but not longer than the expiration of the period fixed by the court which or officer who ordered the said person's detention in an institution for the treatment of persons dependent upon dependence-producing substances.

(4) Subject to the provisions of subsection (3), the provisions of this Act and of any rule shall apply in respect of a person admitted to or detained in a rehabilitation centre or registered rehabilitation centre under this section as if his detention in that rehabilitation centre or registered rehabilitation centre had been ordered under any other provision of this Act: Provided that—

(*a*) the management concerned shall not grant to such person leave of absence under section 40;

(*b*) subject to the provisions of the agreement (if any) by virtue of which such person was admitted to the rehabilitation centre or registered rehabilitation centre in question, such person shall be discharged therefrom only if the Minister approves his discharge.

51. Delegation of Secretary's and Director's powers.—(1) The Secretary may delegate to any other senior officer any of the powers conferred upon him by this Act.

(2) The Director may delegate to any other senior officer any of the powers conferred upon him by this Act.

52. Regulations.—(1) The Minister may make regulations relating to—

(*a*) the form of any application, authority, notice, order, register, process or subpoena, certificate, consent or licence which may or shall be made, granted, given, kept or issued under this Act, and any other form which is required in administering the provisions of this Act;

(*b*) the books, accounts, registers or records to be kept by the management of a registered rehabilitation centre or registered hostel;

(*c*) the establishment, maintenance, management and control of rehabilitation centres and hostels, and the abolition of rehabilitation centres and hostels;

(*d*) the constitution, procedure, functions, powers and duties of the management of a rehabilitation centre or hostel; the appointment, resignation and discharge of members of such managements who are not officers in the public service and the payment to them of allowances and of reasonable out-of-pocket expenses;

(*e*) the functions, powers and duties of the members of the staff of rehabilitation centres, hostels, registered rehabilitation centres and registered hostels;

(*f*) the registration of the institutions or places referred to in section 21 (1) or 24 (1); the constitution, procedure, functions, powers and duties of the managements of registered rehabilitation centres and registered hostels, the returns and reports to be furnished by such managements and the withdrawal or surrender of certificates granted in respect of such registered rehabilitation centres or registered hostels;

(*g*) the conditions subject to which grants may be made to approved associations of persons under section 28, the books, accounts and records to be kept by such associations and the returns and reports to be rendered by them;

(*h*) the classification of rehabilitation centres and the classification and separation of inmates within a rehabilitation centre;

(*i*) the committal and admission of persons to rehabilitation centres or registered rehabilitation centres;

(*j*) the conditions subject to which and the periods for which leave of absence may be granted to inmates of rehabilitation centres or registered rehabilitation centres, and the revocation of such leave of absence;

(*k*) the terms and conditions subject to which inmates may be released on licence, the method of supervision of such inmates and the revocation of such licences;

(*l*) the transfer and retransfer of inmates under section 35, 36, 37, 38 or 39;

(*m*) the matters with regard to which the management of a rehabilitation centre, hostel, registered rehabilitation centre or registered hostel may from time to time prescribe rules for the proper domestic administration and control thereof;

(*n*) the maintenance of good order and discipline in rehabilitation centres, hostels, registered rehabilitation centres and registered hostels, and the treatment, training, care and control of the inmates of rehabilitation centres, hostels, registered rehabilitation centres and registered hostels or of persons who are detained temporarily therein in terms of any provision of this Act;

(*o*) enabling inmates to practise their religion and the ministers of their respective denominations to have access to them;

(*p*) the conditions subject to which inmates shall have the right of access to the management, and *vice versa*;

(*q*) the discharge of inmates of a rehabilitation centre or registered rehabilitation centre from the provisions of this Act;

(*r*) the work to be performed by the inmates of a rehabilitation centre or registered rehabilitation centre, during their detention therein, and the hours and conditions of such work;

(*s*) the conditions subject to which voluntary inmates may be admitted to any rehabilitation centre or registered rehabilitation centre, their transport thereto and their transport therefrom to their homes, the fees payable in respect of their transport, maintenance or other services rendered to them and the circumstances in which such inmates may be exempted from the obligation to pay any such fees;

(*t*) the disposal by sale or otherwise of any property in the possession of the management of any rehabilitation centre or registered rehabilitation centre and belonging to any inmate who has absconded or is in terms of section 43 (1) deemed to have absconded, or has died or has failed to claim or receive such property and, where the property has been sold, the disposal of the proceeds of the sale;

(*u*) the requirements referred to in paragraph (*c*) of section 31 (1);

(*v*) any matter which, in terms of any provision of this Act, is required to be or may be prescribed by regulation;

(*w*) generally, all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

(2) Regulations relating to any financial matter or any matter connected therewith, shall be made in consultation with the Minister of Finance.

(3) (*a*) Regulations made under subsection (1) may prescribe penalties for any contravention thereof or of any rules prescribed by the management of a rehabilitation centre or registered rehabilitation centre under powers conferred upon it by regulation.

(*b*) Such penalties shall, in so far as they relate to persons who are not inmates, not exceed a fine of one hundred rand, and in so far as they relate to inmates, may take any one or more of the following forms—

(i) forfeiture of one or more specified privileges for a specified period;

(ii) forfeiture of allowances, wholly or in part, for a specified period;

(iii) increase of normal hours of labour by not more than three hours per day for a period not exceeding three days;

(iv) separation from the other inmates in a place set aside for the purpose at the rehabilitation centre or registered rehabilitation centre for a period not exceeding five days.

(*c*) If any form of punishment mentioned in subparagraph (iii) or (iv) of paragraph (*b*) is prescribed, the regulations shall specifically provide that no such form of punishment may be imposed unless the medical officer responsible for the medical care of the inmate concerned has certified that such punishment will, in his opinion, not be harmful to the health of that inmate.

(4) Different regulations may be made under subsection (1) in respect of persons of different classes or population groups or in respect of different rehabilitation centres, hostels, registered rehabilitation centres or registered hostels or different categories of rehabilitation centres, hostels or registered rehabilitation centres or registered hostels, and the Minister may also in such regulations differentiate in any manner he may deem fit between different groups of inmates in rehabilitation centres, hostels or registered rehabilitation centres or registered hostels generally or in any particular rehabilitation centre, hostel or registered rehabilitation centre or registered hostel.

53. Administration of Act.—(1) The State President may by proclamation in the *Gazette* assign the administration of the provisions of this Act either generally or in respect of persons belonging to any specified class or population group defined in the proclamation, to any Minister or partly to one Minister and partly to another Minister or other

Ministers, and may in such proclamation specify the powers or functions which shall be exercised or performed by the several Ministers and may further specify that any power conferred or duty imposed upon any Minister by this Act, shall be exercised or performed by one Minister acting in consultation with another Minister and may contain such adaptations of such Act as are required for the administration thereof in terms of the proclamation.

(2) The State President may from time to time by like proclamation vary or amend any such proclamation.

54 to 61 inclusive .....

[Ss. 54 to 61 inclusive repealed by s. 64 of Act No. 56 of 1974.]

62. .....

[S. 62 repealed by s. 344 (1) of Act No. 51 of 1977.]

63. Repeal of laws.—(1) Subject to the provisions of subsections (2) and (3), the Retreats and Rehabilitation Centres Act, 1963 (Act No. 86 of 1963), is, except in so far as it is necessary for the administration thereof by the Minister of Coloured Affairs in terms of Proclamation No. 57 of 1964, and the Ordinance for the Prevention and Combating of Alcoholism and Anti-social Conduct, 1965 (Ordinance No. 11 of 1965), of the territory, hereby repealed.

(2) Any person, except a Coloured as defined in Proclamation No. 57 of 1964, who at the commencement of this Act is, in pursuance of an order made under the Retreats and Rehabilitation Centres Act, 1963, or the Ordinance for the Prevention and Combating of Alcoholism and Anti-social Conduct, 1965, an inmate of a rehabilitation centre or registered rehabilitation centre, shall be deemed to be detained therein in pursuance of an order made under a provision of this Act.

(3) Any proclamation, regulation, rule, order, appointment, authorization, leave of absence or licence, issued, made, prescribed, given or granted and any other action taken under any provision of a law repealed by subsection (1), shall, except in so far as it is necessary for the administration of such Retreats and Rehabilitation Centres Act, 1963, by the Minister of Coloured Affairs in terms of Proclamation No. 57 of 1964, or in so far as it relates to a Coloured as defined in that Proclamation, be deemed to have been issued, made, prescribed, given, granted or taken under the corresponding provision of this Act.

64. Application of Act in South-West Africa.—This Act and any amendment thereof shall apply also in the territory, including the Eastern Caprivi Zipfel.

65. Short title and commencement.—This Act shall be called the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*, and different dates may be so fixed in respect of different provisions thereof.

Schedule

[Schedule amended by Proclamations No. R.32 and No. R.263 of 1972, No. R.155 of 1973, No. 243 of 1975, No. 25, No. 141 and No. 239 of 1976 and No. 277 of 1977, substituted by Proclamation No. R.100 of 1980 and amended by Government Notice No. R.1916 of 1980, by Proclamations No. 66 of 1981, No. 243 of 1982 and No. 99 of 1985 and by Government Notice No. R.1131 of 1989.]

PART I

PROHIBITED DEPENDENCE-PRODUCING DRUGS

All the substances mentioned in this Schedule include the following:

(*a*) the isomers of the substances where the existence of such isomers is possible in the specific chemical compounds;

(*b*) the esters and ethers of the substances and the isomers thereof where the existence of such esters and ethers is possible;

(*c*) the salts of the substances or the isomers thereof or the esters or ethers of the said substances or the isomers thereof, where the existence of such salts is possible; and

(*d*) all the preparations and admixtures of the substances where such preparations and admixtures are not expressly excluded.

Amphetamine.
Bufotenine (N,N-dimethylserotonin).
Cannabis (dagga) and the whole plant or any portion or product thereof.
Coca leaf.
Dexamphetamine.
Diethyltryptamine [3-(2-(diethylamino)-ethyl)-indole].
Dimethyltryptamine [3-(2-(dimethylamino)-ethyl)-indole].
Harmaline (3,4-dihydroharmine).
Harmine [7-methoxy-1-methyl-9H-pyrido (3,4-b)-indole].
Heroin (diacetylmorphine).
Lysergide (lysergic acid diethylamide).
Mescaline (3,4,5-trimethoxyphenethylamine).
Methamphetamine.
Methaqualone, including Mandrax, Isonox, Quaalude, or any other preparation containing methaqualone and known by any other trade name.
Methylenedioxyamphetamine (MDA).
4-Methyl-2,5-dimethoxyamphetamine (DOM) and its derivatives.
Phencyclidine and its congeners N-ethyl-1-phenylcyclohexylamine (PCE), 1-(1-phenylcyclohexyl) pyrrolidine (PHP or PCPY) and 1-[1-(2-thienyl)cyclohexyl]piperidine (TCP).
Phenmetrazine.
Prepared opium.
Psilocin (4-hydroxydimethyltryptamine).
Psilocybin (4-phosophoryloxy-N,N-dimethyltryptamine).
Tetrahydrocannabinol.

PART II

DANGEROUS DEPENDENCE-PRODUCING DRUGS

All the substances mentioned in this Schedule include the following:

(*a*) the isomers of the substances where the existence of such isomers is possible in the specific chemical compound;

(*b*) the esters and ethers of the substances and the isomers thereof where the existence of such esters and ethers is possible;

(*c*) the salts of the substances or the isomers thereof or the esters or ethers of the said substances or the isomers thereof, where the existence of such salts is possible; and

(*d*) all the preparations and admixtures of the substances where such preparations and admixtures are not expressly excluded.

Acetorphine.
Acetyldihydrocodeine, excluding admixtures containing not more than 2,5 per cent of acetyldihydrocodeine.
Acetylmethadol.
Alfentanil.
Allylprodine.
Alphacetylmethadol.
Alphameprodine.

Alphamethadol.
Alphaprodine.
Anileridine.
Benzethidine.
Benzphetamine.
Benzylmorphine.
Betacetylmethadol.
Betameprodine.
Betamethadol.
Betaprodine.
Bezitramide.
Chlorodyne (Tincture of Chloroform and Morphine B.P.C. 1963) or any preparation or admixture thereof described as chlorodyne and containing morphine in any proportion, except admixtures containing not more than 5.0 per cent of chlorodyne in combination with other medicines in such manner that it cannot be recovered by readily applicable means or in a yield which would constitute a risk to public health.
Clonitazene.
Cocaine, except admixtures containing not more 0.1 per cent cocaine, calculated as cocaine alkaloid.
Codeine (methylmorphine), except admixtures containing not more than 2.5 per cent codeine.
Codoxime.
Concentrate of poppy straw.
Desomorphine.
Dextromoramide.
Dextropropoxyphene; except preparations and mixtures for oral use containing not more than 135 milligrams dextropropoxyphene base per dosage unit or with a concentration of not more than 2.5 per cent in undivided preparations.
Diampromide.
Diethylthiambutene.
Difenoxin (or dipheoxylic acid); any preparation of difenoxin, except admixtures containing, per dosage unit, 0.5 milligrams or less of difenoxin, calculated as base, and a quantity of atropine sulphate equal to at least 5.0 per cent of the quantity of difenoxin, calculated as base, which is present in the mixture.
Dihydrocodeine; except admixtures containing not more than 2.5 per cent dihydrocodeine.
Dihydromorphine.
Dimenoxadol.
Dimepheptanol.
Dimethylthiambutene.
Dioxaphetylbutyrate.
Diphenoxylate; except preparations containing not more than 2.5 milligrams of diphenoxylate, calculated as base, and not less than 25 micrograms of atropine sulphate per dosage unit.
Dipipanone.
Drotebanol.
Ecgonine, and the esters and derivatives thereof which are convertible to ecgonine and cocaine.
Ethylmethylthiambutene.
Ethylmorphine; except admixtures containing not more than 2.5 per cent ethylmorphine.
Etonitazene.
Etorphine.
Etoxeridine.
Fenproporex.
Fentanyl.
Furethidine.
Hydrocodone (dihydrocodeinone).
Hydromorphinol (14-hydroxydihydromorphine).
Hydromorphone (dihydromorphinone).
Hydroxypethidine.
Isomethadone.
Ketobemidone.
Levomoramide.
Levophenacylmorphan.
Levorphanol.
Mecloqualone.
Mefenorex.
Metazocine.
Methadone.
Methadone-intermediate.
Methorphan, including levomethorphan and racemethorphan, but excluding dextromethorphan.
Methyldesorphine.
Methyldihydromorphine.
Methylphenidate and its derivatives.
Metopon.
Moramide-intermediate.

Morpheridine.

Morphine; except preparations and admixtures of morphine containing not more than 0,2 per cent morphine, calculated as anhydrous morphine, and except admixtures from which morphine cannot be recovered by readily applicable means or in a yield which would constitute a risk to public health (see also Chlorodyne).

Morphine methobromide and other pentavalent nitrogen morphine derivatives.

Morphine-N-oxide and its derivatives.

Myrophine (myristylbenzylmorphine).

Nicocodine.

Nicodicodine.

Nicomorphine.

Noracymethadol.

Norcodeine; except admixtures containing not more than 2,5 per cent norcodeine.

Norlevorphanol.

Normethadone.

Normorphine (demethylmorphine or N-demethylated morphine).

Norpipanone.

Opium; except admixtures containing not more than 0,2 per cent morphine calculated as anhydrous morphine (see also Chlorodyne).

Oxycodone (14-hydroxydihydrocodeinone or dihydrohydroxycodeinone).

Oxymorphone (14-hydroxydihydromorphinone or dihydrohydroxymorphinone).

Pethidine, pethidine-intermediate A, pethidine-intermediate B and pethidine-intermediate C.

Phenadoxone.

Phenampromide.

Phenazocine.

Phendimetrazine.

Phenomorphan.

Phenoperidine.

Pholcodine; except admixtures containing not more than 2,5 per cent pholcodine.

Piminodine.

Piritramide.

Proheptazine.

Properidine.

Propiram.

Racemoramide.

Racemorphan.

Sufentanil.

Thebacon.

Thebaine.

Tilidine.

Trimeperidine.

PART III

Potentially Dangerous Dependence-producing Drugs

Amobarbital, cyclobarbital, pentobarbital, secobarbital and their salts; preparations and admixtures thereof, except preparations and admixtures containing not more than 30 milligrams per minimum recommended or prescribed dose, when intended for continued use in asthma and epilepsy.

Chlorphentermine and its salts; preparations and admixtures thereof.

Diethylpropion and its salts; preparations and admixtures thereof.

Glutethimide; preparations and admixtures thereof.

Pentazocine and its salts; preparations and admixtures thereof.